

Application No. 10/712,257
Reply dated March 29, 2005
Response to Office Action dated March 18, 2005

REMARKS/ARGUMENTS

Favorable consideration and allowance are respectfully requested for claims 1-6 in view of the foregoing amendments and the following remarks.

The rejection of claims 1-6 under 35 U.S.C. § 102(e) as anticipated by Bogdan et al. (US 6451867) is respectfully traversed.

As amended, claim 1 recites that the blowing agent comprises a mixture of

- a) 1,1,1,3,3-pentafluorobutane, and
- b) 1,1,1,2-tetrafluoroethane, 1,1,1,2,3,3-heptafluoropropane or 1,1,1,3,3-pentafluoropropane in an amount from 5 to 7% by weight of the blowing agent.

Support for this amendment can be found in the specification, for instance in paragraph [0009].

Bogdan does not teach or suggest a non-combustible premix with a blowing agent including these features. Further, Bogdan does not teach that non-combustible premixes containing a blowing agent can be achieved. Accordingly, Bogdan fails to teach each and every element of claim 1, as well as claims 2-6 dependent therefrom. Reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claims 1-6 under 35 U.S.C. § 102(b) as anticipated by DE 198 22 944 is respectfully traversed.

Claim 1 requires a phosphorus compound in an amount of 10 to 20% by weight. DE 198 22 944 provides no teaching of such a range for a phosphorous compound. Further, DE 198 22 944 does not teach that non-combustible premixes containing a blowing agent can be

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achieved. Therefore, the reference fails to teach each and every element of claim 1, as well as claims 2-6 dependent therefrom. Reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claims 1-6 under 35 U.S.C. § 102(e) as anticipated by Eisen et al. (US 65900003) is respectfully traversed.

A certified translation of the priority document is submitted herewith entitling the present application to the benefit of the filing date of that priority document. This is believed to remove Eisen et al. as a 102(e) reference to the present application. Further, Eisen et al. does not teach the cited range of blowing agent provided in the premix, or that non-combustible premixes containing a blowing agent can be achieved. Therefore, the reference fails to teach each and every element of claim 1, as well as claims 2-6 dependent therefrom. Reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claims 1-6 under 35 U.S.C. § 102(e) as anticipated by Kruecke et al. (US 6080799 or 6380275) is respectfully traversed. Kruecke is primarily directed toward blowing agents and does not teach a non-combustible premix containing a blowing agent. Considering Example 3 of Kruecke (6080799) (column 4, lines 47-67), dimethylcyclohexylamine is provided in the premix as a catalyst, along with other adjuvants. There is no teaching that a non-combustible premix containing a blowing agent can be achieved. The other reference, Kruecke (6380275), fails to teach the required weight range for a phosphorous compound. Accordingly, the references fail to teach each and every element of the claims and reconsideration and withdrawal of this rejection are respectfully requested.

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Although claims 1-6 are not believed to be unpatentable over claims 1-25 of US 6380275 and claims 1-15 of US 6080799 for obviousness-type double patenting, upon the Examiner's indication that the claims are allowable, Applicants intend to file a terminal disclaimer to overcome the double patenting rejection.

CONCLUSION

In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Although a petition for an extension of two months is provided herewith, if necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket No. 037110.52632US).

Respectfully submitted,

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